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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,513	01/03/2002	Kwang Chun Chung	2316-012216	6001

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William H. Logsdon  
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219-1818

EXAMINER
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LE, DANH C

ART UNIT	PAPER NUMBER
2683	5

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/038,513

Applicant(s)

CHUNG ET AL.

Examiner

DANH C LE

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7,8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/03/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
  - a) On page 5, line 26, replace "4" with -3—after "fig." in order to match the figure
3.
  - b) On page 6, line 19, "PCB" should be complete words.
  - c) On page 8, line 3, replace "5" with -6—after "fig." in order to match the figure
6.

Appropriate correction is required.

### ***Drawings***

3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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The drawings are objected to under 37 CFR 1.83(a) because they fail to show 116B in figure 3, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**5. Claims 1, 2, 5, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Lathrop (US 6,320,960).**

**As to claim 1**, Lathrop teaches an over-the-ear type headset (figure 1) comprising:

a headset body containing an earphone and a microphone (col.3, lines 17-20);

and

a hanger coupled to the headset body, which is adapted to be bent along a back of a user's ear (col.4, lines 25-39).

**As to claim 2**, Lathrop teaches the over-the-ear type headset as set forth in claim further comprising an electrical wire connected to the earphone and the microphone for allowing audio signals be transmitted to and from the earphone and the microphone (col.4, lines 16-24).

**As to claim 5**, Lathrop teaches the over-the-ear type headset as set forth in claim 1, in which the headset body comprises a housing containing the earphone (20) at an upper part and microphone at a lower the part (50).

**As to claim 6**, Lathrop teaches the over-the-ear type headset as set forth in claim 5 which the housing is provided with a bulging portion at an inner surface corresponding an ear hole of user's ear (col.5, lines 23-36, a raise surface 385 forming a compressible cavity between the flat cover and the raised surface 385).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lathrop in view of Lear (US 5,042,933).**

**As to claim 3**, Lathrop teaches the over-the-ear type headset as set forth in claim 1, Lathrop fails further teaches comprising an end-cap coupled to an end of the hanger and having bulging portion which is radially enlarged. Lear teaches an end-cap coupled to an end of the hanger and having bulging portion, which is radially enlarged (col.4, line 52-col.5, line 10). Therefore, it would have been obvious to one of ordinary

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skill in the art at the time the invention was made to provide the teaching of Lear into the system of Lathrop in order to snugly secure the headset to any size ear lobe as Lear suggested (col.4, line 52-col.5, line 10).

**As to claim 4**, the combination of Lathrop and Lear teaches the over-the-ear type headset as set forth in claim 3 in which the bulging portion is provided only at an area of the end-cap which faces toward a user's head when the hanger is bent along a back of a user's ear (Lear, col.4, line 52-col.5, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Lear into the system of Lathrop in order to snugly secure the headset to any size ear lobe as Lear suggested (col.4, line 52-col.5, line 10).

***Allowable Subject Matter***

8. Claims 7, 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 7, the teaching of Lathrop and Lear either alone or in combination fails to teach the hanger comprises a core having an internal passage which is comprised of an iron wire wound into a spiral spring shape, filler wound the core to be positioned in a groove between adjacent loops of the wire, and a sheath surrounding the core and the filler.

Dependent claim 8 is allowable for the same reason.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A. Makkonen (US 6,396,935) teaches headset and method for a headset.
- B. Ou (US 6,359,995) teaches an earphone fittable to both ear hanger.
- C. MacDonald (US 2002/0041697) teaches flexible earhook.
- D. Ullman (US 5,787,166) teaches telephone communication handset.
- E. Andrea et al (US 5,715,321) teaches noise cancellation headset for use with stand or worn on ear.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C LE whose telephone number is 703-306-0542. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "danh", is written over a horizontal line.

September 7, 2004

DANH CONG LE  
PATENT EXAMINER